

Dale Campbell

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1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
3           CHARLESTON DIVISION

4           IN RE: DIGITEK PRODUCT LIABILITY MDL NO. 1968  
5           LITIGATION,

6           MICHAEL PASKEN, et al.,

7           Plaintiffs,                   MDL No. 2:08-1075

8           vs.

9           ACTAVIS GROUP HF, et al.,

10           Defendants.

11           - - - -  
12           DEPOSITION OF: DALE CAMPBELL  
13           - - - -

14           TRANSCRIPT MARKED CONFIDENTIAL PURSUANT TO THE TERMS  
15           OF THE PROTECTIVE ORDER

16           DEPOSITION DATE:  
17           July 31, 2009  
18           Friday, 10:05 a.m.

19           LOCATION:  
20           AKF REPORTERS, INC.  
21           436 Boulevard of the Allies  
22           Pittsburgh, PA 15219

23           TAKEN BY:  
24           Defendant Mylan

25           REPORTED BY:  
26           Pamela L. Beck  
27           Notary Public  
28           AKF Reference No. PB14096

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1 DEPOSITION OF DALE CAMPBELL,  
2 a witness, called by the Defendant Mylan for  
3 examination, in accordance with the Federal Rules of  
4 Civil Procedure, taken by and before Pamela L. Beck,  
5 a Court Reporter and Notary Public in and for the  
6 Commonwealth of Pennsylvania, at AKF Reporters,  
7 Inc., 436 Boulevard of the Allies, Pittsburgh,  
8 Pennsylvania, on July 31, 2009, commencing at  
9 10:05 a.m.

10 APPEARANCES:

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1 A. About it?

2 Q. About the recall.

3 A. Actually, I think I talked to his associate as  
4 well.

5 Q. Do you recall who the associate is?

6 A. No, I'm not sure what her name was.

7 Q. Other than telling you to stop taking the  
8 Digitek, did Dr. Ellis tell you or give you  
9 any further instruction?

10 A. He just told me to stop taking it immediately.

11 Q. Did you speak to the pharmacist at Rite Aid  
12 regarding the recall?

13 A. No, I did not.

14 Q. Do you recall whether or not the recall letter  
15 instructed you to do anything with the  
16 tablets; in other words, to destroy them,  
17 throw them away or return them?

18 A. They asked to return them, they would replace  
19 them with new ones.

20 Q. And did you do that?

21 A. No.

22 Q. Why not?

23 A. My doctor told me to quit taking them  
24 immediately.

25 Q. Right. But you understood that you could

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1 return them, the tablets to Rite Aid?

2 A. Yes.

3 Q. And I'm sorry, why didn't you do that?

4 A. My doctor told me to quit taking them, so why  
5 would I return them? I mean, I didn't need  
6 them anymore.

7 Q. Do you understand that if you return them, you  
8 might be entitled to a refund?

9 MS. AVERY: Objection to form.

10 Q. I'm sorry?

11 A. No, they were going to replace them.

12 Q. That's what the letter said?

13 A. The letter said they would replace the pills.

14 Q. Do you recall seeing any reference in the  
15 recall letter to a company called Stericycle?

16 A. No.

17 Q. When you stopped taking them, you just kept  
18 the tablets?

19 A. I just left them, yes, left them in my pill  
20 bag.

21 Q. Why was it that you didn't throw them away?

22 A. I just didn't really think about it. I just  
23 left them in there.

24 Q. When did you determine that you were going to  
25 contact an attorney regarding your ingestion

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1 of Digitek?

2 A. I got more letters, I think, and that's when I  
3 contacted the attorneys.

4 Q. More letters from whom?

5 A. I guess your company or whoever. I don't know  
6 who exactly it was. There was more letters  
7 that came about the recall.

8 Q. Do you remember what they said?

9 A. No, ma'am, I don't.

10 Q. Do you remember how many letters?

11 A. No, I don't.

12 Q. So when did contact an attorney?

13 A. I'm not sure of the date. It was awhile after  
14 I received the letter.

15 Q. And why is it that you decided to contact an  
16 attorney?

17 A. To recover my, what do you call it, my co-pays  
18 for buying this medicine.

19 Q. Was that your primary concern at that time, to  
20 recover the co-pays?

21 MS. AVERY: Objection to form.

22 A. Pretty much.

23 Q. And what attorney did you contact?

24 A. I can't remember her name.

25 Q. Was it the same firm that is currently

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1                   was taking this medicine as well.

2   Q.    Do you understand what your obligations are as  
3                   a class representative?

4                   MS. AVERY: Objection to form.

5   A.    To try and recover the losses they had as  
6                   well.

7   Q.    Do you understand that you could have filed a  
8                   lawsuit simply on your own behalf, in other  
9                   words, not be part of a class action?

10   A.   I'm sure I could have, yes.

11   Q.   Why is it that you decided you wanted to  
12                   pursue this as a class action and be the  
13                   representative?

14   A.   To help the other people that took a loss as  
15                   well.

16   Q.   Have you met or spoken to any other members of  
17                   this class?

18   A.   No, ma'am.

19   Q.   Do you know any of their names or any of  
20                   their --

21   A.   No, ma'am.

22   Q.   Do you know where they live or any of that  
23                   information?

24   A.   No.

25   Q.   Do you have any information regarding the

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1                   injuries that they're claiming?

2   A.    No, ma'am.

3                   MS. AVERY: Objection to form.

4   Q.    Do you have any information as who how you  
5                   were selected to be class representative?

6                   MS. AVERY: Objection to form,  
7                   mischaracterizes the testimony.

8   A.    Repeat that.

9   Q.    Do you know why you are a class  
10                   representative?

11   A.    I had medicine.

12   Q.    Do you understand that there are certain  
13                   obligations that a class representative has as  
14                   opposed to a member of a class action?

15   A.    No.

16   Q.    So, you don't understand what the difference  
17                   in those obligations are?

18                   MS. AVERY: Objection to form.

19   A.    Well, what do you mean?

20   Q.    I'm trying to find out what you mean. Do you  
21                   understand what obligations a class  
22                   representative has?

23                   MS. AVERY: Objection to form, calls  
24                   for a legal conclusion.

25   A.    That I'm representing the other people that

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1 maybe got injured by this medicine.

2 Q. So, there are class representatives and then  
3 there are class members. Do you understand  
4 that difference?

5 A. Yes.

6 MS. AVERY: Objection to form.

7 Q. Do you know why or how you were chosen to be a  
8 class representative rather than a class  
9 member?

10 MS. AVERY: Objection to form.

11 A. No.

12 Q. Have you been promised anything other than  
13 recovery as a member of the class?

14 A. No.

15 Q. What is it that you're hoping to recover in  
16 this lawsuit?

17 A. My co-pay for all the medicine and the co-pay  
18 for all of the people in the class action  
19 suit.

20 Q. Now, as I understand it, you are bringing  
21 claims alleging that you were physically  
22 harmed by Digitek?

23 A. I was very sick, yes.

24 Q. And you're also claiming a financial injury;  
25 is that correct?

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1 Q. Did you do any research regarding Digoxin or  
2 Digitek when you first started taking it?

3 A. No, I just -- my doctor told me I needed this  
4 medicine and I took it. You know, I got faith  
5 in him. I hate to be this way, but I got to  
6 use the men's room again.

7 Q. Oh, that's quite all right.

8 - - - -

9 (There was a recess in the  
10 proceedings.)

11 - - - -

12 BY MS. DOWNIE:

13 Q. Have you ever known anybody else who took  
14 Digitek or Digoxin?

15 A. No, ma'am.

16 Q. I understand from your earlier testimony, you  
17 haven't spoken to any of your class members  
18 about their ingestion; is that right?

19 A. Yes.

20 Q. Other than talking to your doctor about  
21 Digitek or Digoxin, did you speak to anybody  
22 else while you were taking the drug about the  
23 drug?

24 A. No.

25 Q. Ever talk to your pharmacist about the

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1 A. No, not that I can think of, no.

2 Q. Do you know whether or not Dr. Ellis or  
3 Dr. McCaslin has ever testified your serum  
4 Digoxin levels?

5 A. I have no clue what they test for, no.

6 Q. Have you ever been told that you had an  
7 elevated serum Digoxin level?

8 A. No.

9 Q. Have you ever talked to anybody from either  
10 one of our clients, Actavis or Mylan?

11 A. Not that I remember, no.

12 Q. Have you ever had any written contact with  
13 anybody from our clients?

14 MS. AVERY: I assume you mean aside  
15 from us obviously?

16 MS. DOWNIE: Yeah, thank you.

17 A. No.

18 Q. Did Dr. Ellis or Dr. McCaslin ever provide you  
19 with any samples of Digitek or Digoxin?

20 A. No.

21 Q. Do you ever remember seeing any other name on  
22 your prescription bottle other than Digitek or  
23 Digoxin?

24 A. No.

25 Q. When you took your Digitek or Digoxin, when

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1                   probably had already taken those tablets from  
2                   the previous prescription and were only taking  
3                   pills out of that bottle?

4   A.    I would say yes.

5   Q.    At any time that you were taking Digitek, did  
6                   you ever notice anything unusual regarding  
7                   their appearance?

8   A.    No.

9   Q.    Did you ever notice whether or not any of them  
10                  looked larger or smaller than you had  
11                  typically seen them appear?

12   A.    No, ma'am. All I knew is they were my  
13                  medicine, I took them, you know.

14   Q.    Now, you claim in your fact sheet that you  
15                  suffered injuries as a result of taking the  
16                  Digitek.

17   A.    I was sick.

18   Q.    When did you first begin suffering symptoms?

19   A.    I can't give you an exact date, all I know is  
20                  I was sick.

21   Q.    Why don't we try this, was it a weekday or on  
22                  a weekend?

23   A.    I'm not really sure.

24   Q.    Was it in the morning or the afternoon or the  
25                  evening?

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1 A. I have no clue.

2 Q. How long after you took your medication in the  
3 morning did you begin to feel, as you've  
4 termed it, sick?

5 A. I have not a clue. It's been awhile. I mean,  
6 all I know is I was ill.

7 Q. Tell me exactly how you were feeling.

8 A. Dizzy, nausea, you know, I had palpitations.  
9 I just wasn't feeling great at all.

10 Q. Did you throw up?

11 A. Yes, I did.

12 Q. How many times?

13 A. Just once that I know of.

14 Q. How long did these symptoms last?

15 A. Quite awhile, that's all I know, is awhile,  
16 because my sisters and my niece and that  
17 wanted me to go see the doctor because I  
18 wasn't feeling good, I wasn't looking good.

19 Q. When you say quite awhile, that means  
20 different things to different people, so.

21 A. I'm not exactly sure on exact times and dates,  
22 but I was sick for awhile.

23 Q. Was it more than a day or two days?

24 A. Oh, yeah, definitely.

25 Q. Was it more than a week?

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1 A. I would say, yes.

2 Q. Was it more than two weeks?

3 A. Yes, definitely.

4 Q. More than three weeks?

5 A. It was probably a month anyhow, let's put it  
6 that way. It might have even been more.

7 Q. During that month that you weren't feeling  
8 well, and you've already said you were feeling  
9 dizzy, nauseous and palpitations. Can you  
10 describe for me any other way that you were  
11 feeling, any other symptoms that you were  
12 having.

13 A. Chest pains, tired, very tired. I would just  
14 collapse, you know, pass out. I slept quite a  
15 bit.

16 Q. Did you call the doctor during this time  
17 period?

18 A. No.

19 Q. Why not?

20 A. Stubborn, I'm sick of doctors.

21 Q. I'm guessing you probably didn't go to a  
22 hospital or an ER?

23 A. No, I did not.

24 Q. Did you speak to anybody in your doctor's  
25 office about how you were feeling?

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1 May of 2008?

2 A. I don't really think I did.

3 Q. Is there any other reason, other than what  
4 you've already told me, as to why you believe  
5 that Digitek caused the illness that you  
6 experienced in May of 2008?

7 A. Nothing I can think of, any other reason.

8 Q. What is it that you believe that the  
9 defendants did wrong in their production or  
10 manufacturer of Digitek?

11 A. Well, evidently they didn't use the quality  
12 control that should have been used.

13 Q. How so?

14 A. Well, if there's a recall, what happens? How  
15 does that recall come about?

16 Q. Why was there a recall?

17 A. Because the pills were extra strength,  
18 according to the paper, extra strength, you  
19 know, more medicine in them than there's  
20 supposed to be.

21 Q. Do you know how many pills were found to be  
22 extra strength?

23 A. No, I don't.

24 Q. Do you know actually if any pills were found  
25 to be extra strength?

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1 A. I have not a clue.

2 Q. Do you have any evidence yourself, apart from  
3 what your attorneys may or may not have done  
4 on your behalf, that the pills you took were  
5 extra strength?

6 A. Do I have any evidence?

7 Q. Yeah.

8 A. No, ma'am, I don't.

9 Q. Do you know what some of the common side  
10 effects of Digoxin are?

11 MS. AVERY: Objection to form.

12 A. I read the paper, you know, when I started  
13 taking them, but no, I'm not exactly sure of  
14 all of the side effects, no.

15 Q. Has anybody ever told you that you experienced  
16 Digoxin toxicity?

17 A. No.

18 Q. Has anybody ever told you that you experienced  
19 an overdose of Digoxin?

20 A. No.

21 Q. Do you believe that you're currently suffering  
22 any injury or symptoms as a result of your  
23 injection of Digitek?

24 A. Do I believe that I am?

25 Q. Yeah.

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1 speculation.

2 MS. DOWNIE: Yeah, it does.

3 Q. I'm trying to understand specifically when you  
4 think you should be reimbursed.

5 A. For whatever the bad medicine was. For me  
6 specifically you're saying; right?

7 Q. Uh-huh.

8 A. Yeah, whatever time frame the bad medicine was  
9 there, that's what I feel I should be  
10 compensated for.

11 Q. Are there any other financial injuries that  
12 you believe you've suffered other than the  
13 co-pay?

14 A. Financial injuries?

15 Q. That's correct.

16 A. No.

17 Q. Do you believe that you're going to require  
18 any future medical treatment?

19 MS. AVERY: Okay, you obviously  
20 recognize the fault in that, so why don't you  
21 try and rephrase it.

22 Q. Your fact sheet does identify some fact  
23 witnesses, and I believe we already probably  
24 identified them, but I just want to make sure  
25 that we, in fact, know who they are. And

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1 A. Yes.

2 Q. So you don't have a loss of consortium claim  
3 or anything like that?

4 A. No.

5 Q. Your fact sheet talks about the workers' comp  
6 and Social Security disability claims, and it  
7 looks like that time period says the  
8 application was filed in 2004 or 2005.

9 Does that sound right to you?

10 A. Yeah.

11 MS. DOWNIE: Why don't we go off the  
12 record for a moment or two.

13 - - - -

14 (There was a discussion off the  
15 record.)

16 - - - -

17 MS. DOWNIE: Back on the record.

18 BY MS. DOWNIE:

19 Q. I just want to confirm, with respect to the  
20 members of your class, I know you haven't met  
21 any of them or talked to any of them, do you  
22 have any information at all regarding the  
23 nature of their claims?

24 MS. AVERY: Objection to form.

25 A. No.

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1 Q. Do you have any information specifically  
2 regarding what medical damages they're  
3 claiming?

4 A. No.

5 Q. Do you have any information specifically  
6 regarding the financial damages that they are  
7 claiming?

8 A. No, I do not.

9 MS. DOWNIE: Those are all of the  
10 questions that I have. Thank you.

11 - - - -

12 EXAMINATION

13 - - - -

14 BY MR. DOHENY:

15 Q. Mr. Campbell?

16 A. Yes.

17 Q. John Doheny, I introduced myself previously.  
18 I am an attorney for Actavis, which made  
19 Digitek for a period of time.

20 You mentioned that you hurt your  
21 back carrying a 100-pound sack?

22 A. Yes, sir.

23 Q. Do you recall when that was?

24 A. 2000.

25 Q. Was that before you began with the heart

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1 COMMONWEALTH OF PENNSYLVANIA) CERTIFICATE

2 COUNTY OF ALLEGHENY ) SS:

3 I, Pamela L. Beck, a Court Reporter and Notary  
4 Public in and for the Commonwealth of Pennsylvania,  
5 do hereby certify that the witness, DALE CAMPBELL,  
6 was by me first duly sworn to testify to the truth;  
7 that the foregoing deposition was taken at the time  
8 and place stated herein; and that the said  
9 deposition was recorded stenographically by me and  
10 then reduced to printing under my direction, and  
11 constitutes a true record of the testimony given by  
12 said witness.

13 I further certify that the inspection, reading  
14 and signing of said deposition were NOT waived by  
15 counsel for the respective parties and by the  
16 witness.

17 I further certify that I am not a relative or  
18 employee of any of the parties, or a relative or  
19 employee of either counsel, and that I am in no way  
20 interested directly or indirectly in this action.

21 IN WITNESS WHEREOF, I have hereunto set my  
22 hand and affixed my seal of office this 5th day of  
23 August, 2009.

24 \_\_\_\_\_

25 Notary Public

IN RE: DIGITEK®  
PRODUCT LIABILITY LITIGATION : MDL DOCKET NO. 1968

**THIS DOCUMENT APPLIES ONLY TO:**  
**Michael Pasken, et al.,** : NO. 2:08-cv-1075

Plaintiff,

v.

Actavis Group hf, et al.,

Defendants.

**ERRATA SHEET TO DEPOSITION TRANSCRIPT OF DALE CAMPBELL**

<u>Page</u> : <u>Line(s)</u>	<u>Correction</u>
various	There are various medical references and company names (e.g., "Bertech" instead of "Bertek") throughout the transcript. I have not checked the court reporter's spelling to determine if any of them need to be corrected.
various	Everyone, myself included, repeatedly misspell my physician's name. I believe that the correct spelling of his name is Gustav Eles.
28:17-9	The phrase "My co-pay for all the medicine and the co-pay for all of the people in the class action suit" should be corrected to state "My co-pay for all the medicine and the co-pay and anything else the court allows for all of the people in the class action suit." The reason for the change is that as I read

that the court has the final say on what is or is not included in a lawsuit.

various One of my sister's names is typed as "Louie". Her name is "Lou Ellen" and the shortened form is "Lou E".

various I noticed a number of errors in questions, but since I was not the person saying them, I don't think that I can correct them. For example, on page 55, line 18, the question refers to "abnormal health rhythm" and I believe she said "abnormal heart rhythm".

There may be other spelling, grammatical, or other transcription errors in the transcript. It is possible that I may not have caught and corrected all of those, particularly with respect to comments or statements that were not mine.

I declare under penalty of perjury under the laws of the U.S. that the above corrections are true and correct to the best of my knowledge, information, and belief. Executed this 15 th day of September, 2009.



Dale Campbell